

Provisional Measures in International Human Rights Law

Abstract

Whenever human rights are at stake there should be quick response of the authority dealing with the situation. Provisional measures can therefore be useful tool how to prevent irreparable harm. The aim of my rigorous thesis is to complement my diploma thesis and to analyse provisional measures indicated by various human rights adjudicators from different continents. Main focus is put on legal provisions empowering international courts and quasi-judicial organs to indicate provisional measures, examining whether provisional measures are legally binding, exploring the extent to which international forums indicate provisional measures, highlighting some specific types of provisional measures and examining whether we can answer the question whether addressees do implement issued provisional measures in proper manner. The approach is description with elements of comparison.

The thesis is composed of six chapters. Chapter one is introductory and defines the concept of provisional measures and its main characteristics and conditions for use. Chapters two to five are dealing with various courts and quasi-judicial organs on the universal level and in Europe, Africa and the Americas. Chapter two is subdivided into two parts. Part one examines International Court of Justice, which is not strictly speaking human rights adjudicator and is not allowing individual complaints, but its case law is very relevant for discussed topic. Part two concentrates on United Nations treaty bodies. Sixth chapter reviews types of provisional measures discussed in previous chapters and providing comparison with the conclusion of surprisingly similar types used worldwide (with several exceptions). Types most often used by various human rights adjudicators are for example halting expulsions, protecting witnesses and human rights defenders, protection indigenous peoples etc.

General conclusions are provided in the last part, which suggests that in order to provide effective protection the provisional measures of all discussed international forums should be explicitly legally binding and observed by states.